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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,872	01/29/2002	Aleksander Szlam	CONCERTO-522AX	7700

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BOURQUE & ASSOCIATES
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835 HANOVER STREET
SUITE 301
MANCHESTER, NH 03104

EXAMINER

TRAN, PHUC H

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/059,872

Applicant(s)

SZLAM, ALEKSANDER

Examiner

PHUC H. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to RCE filed 3/26/2007. Claims 1-5 and 27-26 are pending in the application. Detailed action is followed:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-5 and 27-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- Regarding to claim 1, the step “a user at a first location to control operation of devices at the second location” fails to disclose in the specification. The same problem exists in claims 27 and 32.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 1 recites the limitation "the controller" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-5 and 27-36 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6359892 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because of following:

For claims 1-5 and 27-36, the claims 1-7 of the Patent discloses a method for allowing a user at a first location to control operation of devices at a second location via an electronic data network (see claim 1, lines 1-2; claim 3, lines 1-3; claim 6 lines 1-3 of the Patent), comprising

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the steps of: accepting an incoming communication from the user over the electronic data network; receiving a user selection of a device over the electronic data network (claim 1, line 6; claim 3, lines 7-8; claim 6, line 11 of the Patent); receiving a user selection of a function of the device over the electronic data network (see claim 1, lines 11-12, claim 3, lines 12-13 of the Patent); sending the user selection of the function to the device (see claim 1, lines 13-14, claim 3, lines 14-15 of the Patent); receiving a response from the device to the device function (see claim 1, lines 15-17; claim 3, lines 16-17 of the Patent); and sending the response to the user over the electronic data network wherein the selected device is a first device (claim 5, lines 20-22 of the Patent), and further comprising the steps of: monitoring the incoming communication for a user selection of a second device (see claim 5, line 32); and wherein the step of accepting the incoming communication comprises accepting the incoming communication from the user over the Internet (see claim 2, lines 1-3; claim 4, lines 1-3; claim 7, lines 1-3).

For claims 1-5 and 27-36, the Applicant's claims merely broaden the scope of the Patent by eliminating the terms "presenting a image of device represented by said representation which was selected" "updating said image to display said result to said user" and from claims 1, 3, 5 and 6 of the Patent. It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re karlson, 136 USPQ 184 (CCPA). Also note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969).; omission of a reference element whose function is not need would be obvious to one skilled in the art.

For claim 1-5, and 27-36, the claim 1-7 of the Patent discloses all the subject matter of the claimed invention with the exception of discloses term "to control operation of devices" and "if the second device is in a different set of devices than the device, then also connecting the

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incoming communication to the controller for the different set of devices to control operation of the second device” of claims 1, 27 and 32. However, in the communication system “control operation of devices” of Application or “access devices” and “conduct business” of the Patent are considering as the communication between users and devices in different location and controlling the connection between the users and devices when there is multiple selections of the users in the communication. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to understand the purpose of communication the users are “control” or “access” or “conduct” the devices in different location.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nickles (U.S. Patent No. 6134591) discloses network security and integration method and system.

Slaughter, III et al. (U.S. Patent No. 5598536) discloses apparatus and method for providing remote users with the same unique IP address upon each network access.

Rodwin et al. (U.S. Patent No. 5812819) discloses remote access apparatus and method which allow dynamic internet protocol (IP) address management.

Cloud et al. (U.S. Patent No. 6253369 B1) discloses workflow object compiler with user interrogated information incorporated into skeleton of source code for generating executable workflow objects.

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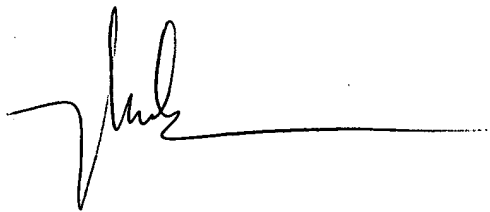
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172.

The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phuc Tran
Assistant Examiner
Art Unit 2616

A handwritten signature in black ink, appearing to read 'Phuc Tran', followed by a long horizontal line extending to the right.

P.t
3/28/07